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File: FOIA

Measure Protecting CIA Files Blocked in House

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The House was blocked temporarily yesterday from acting on a bill that would put a vast number of CIA files beyond reach of the Freedom of Information Act.

The objections came from Rep. Ted Weiss (D-N.Y.), who charged that the measure was worded so that it could keep illegal activities from ever coming to light. He said judicial review of the CIA's administration of the new law would be virtually impossible because of the restrictions imposed on filing lawsuits.

Backers of the legislation, however, emphasized that it is supported by the national leadership of the American Civil Liberties Union as well as the CIA. House Committee on Intelligence Chairman Edward P. Boland (D-Mass.) said the

CIA had pledged to speed "the flow of properly releasable information" if the bill is enacted.

The bill is expected to come up for a vote on the House floor today under a procedure requiring two-thirds approval. Weiss blocked action yesterday on the ground that a quorum was not present.

Already passed by the Senate in slightly different form, the proposal would enable the CIA to refuse to search the "operational files" in the agency's directorates of operations and science and technology and the office of security.

Boland said this would enable the CIA to spend more time processing requests for other records under the Freedom of Information Act, such as finished intelligence reports and policy studies, and reduce the two- to three-year backlog.

Critics of the bill, however, con-

tend that the backlog is largely due to the CIA's recalcitrance in dealing with requests and that the law now affords adequate protection for "properly classified foreign intelligence information."

Under the current law, which was extended to cover the CIA 10 years ago, the agency has thus far never been forced by courts to disclose any information it contended should not be made public.

CIA officials, however, have objected for years that the FOIA takes too much time and effort and sometimes makes it difficult to convince confidential agents abroad that their secrets are safe at Langley.

The bill would allow FOIA requesters to go to court to contest the "improper exemption of operational files" by the CIA, but under limited circumstances. A complainant would have to have "personal

knowledge or otherwise admissible evidence" that the withholding was improper. And even when such an allegation is made, the CIA can re-assert that the files but it simply by stating that the files "likely to contain" the requested records are "operational files."

Such provisions, Weiss charged, "constitute an unwarranted gift to an agency whose record of meeting its responsibilities under present FOIA law has been questionable at best."

At hearings on the measure, CIA officials assured Congress that information concerning illegal or improper activities still would be subject to search and review under FOIA, but Weiss protested that the safeguards contained in the bill are not adequate.

Under the measure, "operational files" would be subject to FOIA search and review for information concerning "the specific subject matter of an investigation" being conducted by the House or Senate intelligence committees or several other bodies. Critics contend the list is too narrow and could lead to endless haggling over what "the specific subject matter of an investigation" is supposed to mean.

Proposed Administration Position Statement on H.R. 5164 from OMB

per Gordon Wheeler, Legislative Affairs, OMB (2:30 p.m.)

"Solely ~~because~~ because of the overriding need to reform the FOIA relative to CIA
operation~~al~~ files, the Administration supports enactment of H.R. 5164."

Above agreed to ~~between~~ CIA & DOJ 6 pm, 9-14-84.